FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 21/2001

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : March 30, 2007.

Heard Shri Sohoni for the appellants, and Shri Kaptan for the respondents.

The appellants are the legal heirs of original defendant. A suit was filed by the plaintiff on the ground that the defendant was in illegal possession of the suit land. It was the case of the plaintiff that by an oral agreement, the defendant started cultivating the land and later on, started asserting that he was the tenant in the agricultural land. The defendant denied the claim of the plaintiff and pleaded that the defendant was the tenant in the land in question and the plaintiff was not entitled to seek possession of the suit property. It is not in dispute that the tenancy Courts have held that the defendant was not a tenant in the suit property. The judgments passed by the tenancy Courts have attained finality.

The trial Court had, on appreciation of the

evidence on record, held that the plaintiff was not entitled to seek possession of the suit property as the plaintiff failed to prove that the defendant was illegally in possession of the same. In an appeal filed by the plaintiff against the judgment passed by the trial Court, the appellate Court reversed the findings recorded by the trial Court and held that the plaintiff proved that the possession of the defendant over the suit land was illegal. The Court further held that the suit filed by the plaintiff was not barred by limitation. The appellate Court held that the writ petition arising out of the tenancy matter was decided by this Court on 1/8/1985 and the suit filed by the plaintiff on 15/9/1989 was well within limitation. It is further conspicuous to note that the ownership of the plaintiff over the suit property is not disputed by the defendant.

The findings recorded by the appellate Court are pure findings of facts based on appreciation of material evidence on record, which do not give rise to any substantial question of law. Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP